

**9 VAC 20-130-10. Definitions.**

The following words and terms when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise:

~~"Abandoned material" means any material that is: disposed of; burned or incinerated; or accumulated, stored or treated (but not recycled) before or instead of being abandoned by being disposed of, burned or incinerated.~~

~~"Agricultural waste" means all solid waste produced from farming operations, or related commercial preparation of farm products for marketing.~~

"Board" means the Virginia Waste Management Board.

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

"Compost" means a stabilized organic product produced by composting in such a manner that the product can be handled, stored, and/or applied to the land.

"Composting" means the manipulation of the natural ~~aerobic~~ process of decomposition of organic materials to increase the rate of decomposition.

"Construction waste" means solid waste that is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and

other structures. Construction wastes include, but are not limited to, lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics ~~if they are part of the construction material~~ if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos-containing material, any liquid, compressed gases, or semi-liquids and garbage are not construction wastes.

~~"Contamination" means the degradation in quality of naturally occurring water, air, or soil resulting either directly or indirectly from human activity.~~

"Debris waste" means solid waste resulting from land clearing operations. Debris wastes include, but are not limited to, stumps, wood, brush, leaves, soil, and road spoils.

"Demolition waste" means solid waste produced by the destruction of structures and their foundations and includes the same materials as construction wastes.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or his designee. For purposes of submissions to the director as specified in the Waste Management Act, submissions may be made to the department.

~~"Discarded material" means a material that is: (i) abandoned material as defined in this chapter; (ii) recycled material as defined in this chapter; or (iii) considered inherently waste like.~~

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.

"Facility" means solid waste management facility unless the context clearly indicates otherwise.

~~"Friable asbestos" means any material containing more than 1.0% asbestos by weight that, when dry, may be crumbled, pulverized or reduced to powder by hand pressure and regulated as a special waste.~~

~~"Garbage" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.~~

~~"Groundwater" means any water below the land surface in the zone of saturation.~~

"Hazardous waste" means a "hazardous waste" as defined by the Virginia Hazardous Waste Management Regulation, 9VAC20-60-12 et seq.

~~"Household waste" means any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage), which is regulated by other state agencies.~~

"Incineration" means the controlled combustion of solid waste for disposal.

~~"Incinerator" means a facility or device designed for the treatment for volume reduction of solid waste by combustion.~~

"Industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

~~"Industrial waste landfill" means a solid waste landfill used primarily for the disposal of a specific industrial waste or a waste that is a byproduct of a production process.~~

"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include regulated medical waste from health care facilities and research facilities that must be managed as a regulated medical waste.

"Integrated waste management plan" means a governmental plan that considers all elements of waste management during generation, collection, transportation, treatment, storage, disposal, and litter control and selects the appropriate methods of providing necessary control and services for effective and efficient management of all wastes. An

"integrated waste management plan" must provide for source reduction, reuse and recycling within the jurisdiction and the proper funding and management of waste management programs.

"Jurisdiction" means a local governing body; city, county or town; or any independent entity, such as a federal or state agency, which join with local governing bodies to develop a waste management plan.

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill (as these terms are defined in 9 VAC 20-80-10 et seq.).

~~"Large diameter tree stumps" means tree stumps larger than six inches in diameter.~~

"Litter" means all waste material, disposable packages or containers, but not including the wastes of the primary processes of mining, logging, farming, or manufacturing.

"Market(s)" means interim or end destinations for the recyclable materials, including a materials recovery facility (MRF).

"Market conditions" means business and system related issues used to determine if materials can be targeted, collected, and delivered to an interim or end market in an efficient manner. Issues may include, but are not limited to: the cost of collection, storage and/or preparation; the cost of transportation; accessible volumes of materials targeted for recycling; market value of materials targeted for collection/recycling; and distance to viable markets.

“Materials recovery facility (MRF)” means for the purpose of this regulation, a facility for the collection, processing and marketing of recyclable materials including, but not limited to, metal, paper, plastics, and glass.

"Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves and other clean wood waste that has undergone size reduction by grinding, shredding, or chipping, and is distributed to the general public for landscaping purposes or other horticultural uses. , except composting as defined and regulated under the Solid Waste Management Regulations (9 VAC 20-80) or the Vegetative Waste Management and Yard Waste Composting Regulations(9 VAC 20-101).

"Municipal solid waste" means waste that is normally composed of residential, commercial, and institutional solid waste and residues derived from the combustion of these wastes.

~~"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health. Such a site is subject to the open dump criteria in 9VAC20-80-180.~~

"Permit" means the written permission of the director to own, operate or construct a solid waste management facility.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

~~"Principal recyclable materials (PRMs)" means paper, metal (except automobile bodies), plastic, glass, commingled, yard waste, wood, and textiles, tires, used oil, used oil filters, used antifreeze, batteries, electronics, or material as may be approved by the director..~~

~~"Principal recyclable materials" does not include large diameter tree stumps.~~

Commingled materials refers to single stream collections of recyclables where sorting is done at a materials recovery facility.

~~"Recycled material" means a material that is derived from recycling.~~

"Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product, which may or may not be similar to the original product. For the purpose of this chapter, recycling shall not include processes that only involve size reduction.

"Recycling residue" means the (i) nonmetallic substances, including but not limited to plastic, rubber, and insulation, which remain after a shredder has separated for purposes of recycling the ferrous and nonferrous metal from a motor vehicle, appliance or other discarded metallic item and (ii) organic waste remaining after removal of metals, glass, plastics and paper which are to be recycled as part of a resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

~~"Refuse" means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.~~

"Regional boundary" means the boundary defining an area of land that will be a unit for the purpose of developing a waste management plan, and is established in accordance with 9VAC20-130-180 through 9VAC20-130-220.

"Regulated medical waste" means solid wastes so defined by the Regulated Medical Waste Management Regulations (9VAC20-120-~~10 et seq.~~ ) as promulgated by the Virginia Waste Management Board.

"Residential waste" means ~~household waste.~~ any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Residential wastes do not include sanitary waste in septic tanks (septage), which is regulated by other state agencies.

"Resource recovery system" means a solid waste management system ~~that~~ which provides for collection, separation, recycling and recovery of energy or solid wastes, including disposal of nonrecoverable waste residues.

"Reuse" means the process of separating a given solid waste material from the waste stream and using it, without processing or changing its form, other than size reduction, for the same or another end use.

~~"Rubbish" means combustible or slowly putrescible discarded materials that include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter,~~

~~plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term "garbage."~~

"Sanitary landfill" means an engineered land burial facility for the disposal of ~~solid~~ household waste that which is so located, designed, constructed and operated to contain and isolate the ~~solid~~ waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction demolition debris, and nonhazardous industrial solid waste.

~~"Scrap metal" means bits and pieces of metal parts such as bars, rods, wire, or metal pieces that may be combined together with bolts or soldering that are discarded material and can be recycled. For the purposes of this chapter, this definition includes the reclaimable metal parts of white goods.~~

"Site" means all land and structures, other appurtenances, and improvements on them used for treating, storing, and disposing of solid waste. This term includes adjacent land within the facility boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste. (Note: This term includes all sites whether they are planned and managed facilities or open dumps.)

~~"Sludge" means any solid, semisolid or liquid wastes with similar characteristics and effects generated from a public, municipal, commercial or industrial waste water~~

wastewater treatment plant, water supply treatment plant, or air pollution control facility;  
~~or any other waste producing facility.~~

"Solid waste" means any ~~garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges that are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended. of those materials defined as 'solid waste' in 9 VAC 20-80-140 et seq.~~

"Solid Waste Planning Unit" means each region or locality that submits a solid waste management plan.

"Solid waste management facility ("SWMF")" means a site used for planned treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

"Source reduction" means any action that reduces or eliminates the generation of waste at the source, usually within a process. Source reduction measures include process modifications, feedstock substitutions, improvements in feedstock purity, improvements in housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process. Source reduction minimizes the material that must be

managed by waste disposal or non-disposal options by creating less waste. Also called  
“waste prevention,” “waste minimization,” or “waste reduction.”

"Source separation" means separation of recyclable materials ~~from the waste stream~~ by the waste generator of materials that are collected for use, reuse, reclamation, or recycling.

~~"Special wastes" means solid wastes that are difficult to handle, require special precautions because of hazardous properties or the nature of the waste creates waste management problems in normal operations.~~

~~"Supplemental recyclable material" means waste tires, used oil, used oil filters, used antifreeze, automobile bodies, construction waste, demolition waste, debris waste, batteries, ash, sludge or large diameter tree stumps, or material as may be authorized by the director.~~

“Tons” means 2,000 pounds.

"Transfer station" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

~~"Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.~~

~~"Used or reused material" means a material which is either:~~

- ~~1. Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or~~
- ~~2. Employed in a particular function or application as an effective substitute for a commercial product or natural resources.~~

~~For purposes of these regulations, "used or reused material" means a given solid waste material that is separated from the waste stream and used, without processing or changing its form, for the same or another end use.~~

"Vegetative waste" means ~~decomposable~~ decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps. For more detail see 9 VAC 20-101.

"Waste exchange" means any system to identify sources of wastes with potential for use, reuse, recycling or reclamation and to facilitate its acquisition by persons who reuse, recycle or reclaim it, with a provision for maintaining confidentiality of trade secrets.

"White goods" means any stoves, washers, hot water heaters or other large appliances. For the purposes of this chapter, this definition also includes, but is not limited to, such Freon-containing appliances as refrigerators, freezers, air conditioners, and dehumidifiers.

"Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter.

**9 VAC 20-130-20. Authority for regulations.**

These regulations are promulgated pursuant to Chapter 14 (§ 10.1-1400 et seq. and specifically §§ 10.1-1402, 10.1-1411 and 10.1-1413.1) of Title 10.1 of the Code of Virginia, which authorizes the Virginia Waste Management Board to promulgate and enforce such regulations as may be necessary to carry out its duties and powers and the intent of the Virginia Waste Management Act and the federal acts.

**9 VAC 20-130-30. Policy.**

It is the policy of the Virginia Waste Management Board to require each region designated pursuant to 9 VAC 20-130-180 through 9 VAC 20-130-220, as well as each city, county and town not part of such a region, to develop comprehensive and integrated solid waste management plans that, at a minimum, consider and address all components of the following hierarchy:

1. Source reduction;
2. Reuse;
3. Recycling;
4. Resource recovery (waste-to-energy);
5. Incineration; and
6. Landfilling.

**9 VAC 20-130-40. Purpose of regulations.**

The purpose of these regulations is to:

1. Establish minimum requirements for solid waste management standards and ~~standards and~~ planning and recycling requirements for protection of the public health, public safety, the environment, and natural resources throughout the Commonwealth; promote local and regional planning that provides for environmentally sound and compatible solid waste management with the most effective and efficient use of available resources;
2. Establish procedures and rules for designation of regional boundaries for solid waste management plans;
3. Establish state, local government, regional or area served by the plan ~~responsibility~~ responsible for meeting and maintaining the minimum recycling rates ~~of 25%~~;
4. Establish the requirement in compliance with the Virginia Waste Management Act, §§ 10.1-1411 and 10.1-1408.1 D 1 (vi) of the Code of Virginia, for withholding issuance of permits for solid waste management facility; and
5. Provide for reasonable variance and exemptions; ~~and~~.

6. Provide for reporting and assessment of solid waste management and recycling in the Commonwealth in accordance with the Virginia Waste Management Act, § 10.1-1413.1 of the Code of Virginia.

**9 VAC 20-130-50. Administration of regulations.**

The director is authorized and directed to administer and enforce these regulations in accordance with the Virginia Waste Management Act, §§ 10.1-1400 through 10.1-1457 of the Code of Virginia.

**9 VAC 20-130-60. Applicability of regulations.**

A. This chapter applies to all cities, counties, towns, designated ~~regions~~ solid waste planning units (under 9 VAC 20-130- 180) and permitted solid waste facilities within the solid waste planning unit, including those facilities covered under permit by rule procedures found in 9 VAC 20-80. Any city, county, and town ~~within that county~~ may mutually agree to unite for the purpose of solid waste management planning, and upon joint written notification to the director, shall be deemed to be a single solid waste planning unit for development of a ~~local~~ solid waste management plan.

B. Any cities, counties, and towns may be represented by a planning district, public service authority, or designated region that has been adopted under 9 VAC 20-130-90 B.

C. The plan may (subject to statutory authority) specify that all solid waste must be recycled at the rate established by the plan regardless of the point of origin of the solid waste. Solid wastes from both public and private sources shall be subject to such requirement.

**9 VAC 20-130-70. Enforcement and appeal.**

A. All administrative enforcement and appeals taken from actions of the director relative to the provisions of this chapter shall be governed by ~~the Virginia Administrative Process Act (§ 9-6.14:1 et seq. Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia).~~ Enforcement of this chapter will be in accord with §§ 10.1-1186, 10.1-1411 and 10.1-1455 of the Code of Virginia.

B. After July 1, 2000 2007, no permit for a ~~solid waste management~~ new sanitary landfill, incinerator, or waste-to-energy facility, or for an expansion, increase in capacity, or increase in the intake rate of an existing sanitary landfill, incinerator, or waste-to-energy facility shall be issued ~~unless the local or regional applicant has a plan approved in accordance~~ until the solid waste planning unit within which the facility is located has a solid waste management plan approved by the Board in accordance with the regulations, except as otherwise provided in § 10.1-1411 ~~with this chapter~~ and the permit complies with the statutory requirements of the Virginia Waste Management Act, §§ 10.4-1411 and 10.1-1408.1 D 1 (iv) of the Code of Virginia. These provisions shall not be applicable to permits or permit amendments required for the operation or regulatory compliance of any existing facility, regardless of type, nor shall it be cause for the delay of any technical or administrative review of pending amendments thereto.

C. Failure to attain a mandated municipal solid waste recycling rate shall not be the sole cause for the denial of any permit or permit amendment, except as provided herein for sanitary landfills, incinerators, or waste-to-energy facilities, provided that all components of the solid waste management plan for the planning unit are in compliance with the regulations.

D. No application for a new solid waste management facility permit or for a modification of a permit to allow an existing solid waste management facility to expand or increase its capacity shall be complete unless the application contains certification, from the governing body for the locality in which the facility is or will be located, that (i) the proposed new facility or the expansion or increase in capacity of the existing facility is consistent with the applicable local or regional solid waste management plan developed and approved pursuant to § 10.1-1411; or (ii) the local government or solid waste management planning unit has initiated the process to revise the solid waste management plan to include the new or expanded facility. Inclusion of such certification shall be sufficient to allow processing of the permit application, up to but not including publication of the draft permit or permit amendment for public comment, but shall not bind the director in making the determination required by § 10.1-1408.1 subdivision D 1.

E. No application for coverage under a permit-by-rule or for modification of coverage under a permit-by-rule shall be complete unless it contains certification from the governing body of the locality in which the facility is to be located that the facility is consistent with the solid waste management plan developed and approved in accordance with § 10.1-1411.

**9 VAC 20-130-80. (Repealed.)**

**9 VAC 20-130-90. Relationship to other bodies of regulation.**

A. This chapter is a solid waste ~~management~~ planning and recycling regulation that specifies minimum standards and planning requirements for solid waste management in the Commonwealth, including solid waste management planning by regional or local governmental entities of the Commonwealth and assessment of solid waste management in the Commonwealth. If there is a mutually exclusive conflict between this chapter and other adopted nonhazardous solid waste management regulations of this agency, the provisions of this chapter are superior. In any detail where there exists no mutually exclusive conflict between this chapter and other regulations of the board, compliance with all regulations is required.

B. Multi-jurisdictional plans developed in fulfillment of the requirements of this chapter must be adopted under authority of the Regional Cooperation Act (Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 of the Code of Virginia), the Virginia Water and Waste Authorities Act (Chapter 51 (§ 15.2- 5100 et seq.) of Title 15.2 of The Code of Virginia), the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions (§ 15.2-1300), or other authority as applicable.

C. If there is a mutually exclusive conflict between this chapter and the Virginia Hazardous Waste Management Regulations, the provisions of the hazardous waste regulations are superior. In any detail where no such mutually exclusive conflict exists, compliance with all regulations is required.

**9 VAC 20-130-100. (Reserved.)**

**9 VAC 20-130-110. Schedule for plan development.**

A. ~~Every city, county, and town~~ Each solid waste planning unit in the Commonwealth shall develop and maintain a solid waste management plan or amend an existing solid waste management plan and submit it for approval in accordance with this chapter. Existing plans may be amended by addendum of items such as consideration of the waste management hierarchy, the recycling program implementation activities and other requirements of this chapter that are not a part of the existing plan. ~~A local jurisdiction participating in an authorized regional solid waste management plan is not required to develop a separate plan.~~

~~B. A complete, revised solid waste management plan in compliance with this chapter shall be provided to the department no later than July 1, 2004.~~

~~C. B.~~ The department shall review and approve or return comments on the deficiencies in each plan submitted in accordance with 9 VAC 20-130-110 A no later than 90 days from the date the plans are received. In the event the department is unable to complete its review within 90 days, the applicant will be notified and given a date as to when the review will be completed.

~~D. C.~~ Each submitter who receives comments on its solid waste management plan under subsection ~~C~~ B of this section shall submit a ~~corrected~~ revised solid waste management plan to the department no later than 90 days following receipt of notification of deficiencies.

~~E. D.~~ Plans approved without alteration shall become effective upon notification of such approval by the department. If after review of the corrected plan submitted pursuant to subsection D of this section, the department cannot approve the corrected solid waste management plan because ~~it~~ the department finds the ~~plans~~ plan not to be in accordance with this chapter, it will

issue a notice of intent to disapprove to the submitter. The notice of intent to disapprove shall set forth (i) the reason for the disapproval, (ii) what is required for approval, ~~and~~ (iii) the right of the submitter to an ~~informational~~ informal fact-finding proceeding under Article 3 of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia), and (iv) allow the development of an Action Plan for the solid waste planning unit as set forth in this Chapter at 9 VAC 20-130-120.I. The department will give priority consideration for review of corrected plans where the ~~local or regional body~~ solid waste planning unit has a pending permit application for a solid waste management facility.

F. E. The director may revoke the approval of any plan or require its revision and resubmittal if there is evidence that there has been significant deviation from the plan. Significant deviations are departures or omissions from activities planned in accordance with 9 VAC 20-130-120. The department will issue a notice of intent to revoke or require revision and resubmittal of a plan. The notice of intent shall set forth (i) whether the department intends to revoke or require revision and resubmittal of the plan, (ii) the reason the department intends to take the action, and (iii) the right of the submitter of the plan to an ~~informational~~ informal fact-finding proceeding under Article 3 of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia).

**9 VAC 20-130-120. ~~Mandatory plan contents~~ Planning requirements.**

A. ~~The solid waste management plan shall include:~~ Basic planning elements:

1. ~~An integrated waste management strategy;~~ Objectives for solid waste management within the planning unit;

2. A discussion as to how the plan will be implemented; and tracked, consisting of an integrated waste management strategy to support and promote the hierarchy set forth at 9 VAC 20-130-30; giving preference to alternatives in the following order of priority: source reduction, reuse, recycling, resource recovery, incineration, and landfilling;
3. ~~Objectives for solid waste management within the jurisdiction;~~
4. ~~3.~~ Definition of incremental stages of progress toward the objectives and schedule for their implementation; including, for compliance with 9 VAC 20-80-500, specific solid waste management facility names, facility capacities, and life based on 20 year need;
5. ~~4.~~ Descriptions of the funding and resources necessary, including consideration of fees dedicated to future facility development; Strategy for the provision of necessary funds and resources;
6. ~~5.~~ Strategy for the provision of necessary funds and resources; Descriptions of the funding and resources necessary, including consideration of fees dedicated to future facility development;
7. ~~6.~~ Strategy for public education and information on source reduction, reuse, and recycling;  
and

~~8-7.~~ Consideration of public and private sector partnerships and private sector participation in execution of the plan. Existing private sector recycling operations should be incorporated in the plan and the expansion of such operations should be encouraged.

B. A minimum recycling rate as specified in § 10.1-1411 of the Code of Virginia ~~of 25% of the~~ for total municipal solid waste generated annually in each city, county, town or region solid waste planning unit shall be met and maintained. ~~The plan shall describe how this rate shall be met or exceeded.~~

1. The plan shall describe how the minimum recycling rate shall be met or exceeded. The department may approve the solid waste management plans of units that do not currently meet the minimum recycling rate only if all other requirements of these regulations have been met and the solid waste planning unit demonstrates its commitment to implementing a strong and detailed action plan for recycling, to meet the required rate.

2. When a solid waste planning unit's annual recycling rate falls below the minimum rate, it shall constitute evidence of a significant deviation from the plan. The plan may be subject to revocation by the department under 9 VAC 20-110.E, unless the solid waste planning unit submits a recycling action plan acceptable to the department per 9 VAC 20-130-120.I.

~~C. Calculation methodology shall be included in the plan.~~

~~1. The plan shall describe the method of calculating the rate of recycling. The following formula shall be used:~~

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%$$

~~Where, "Recycled" equals the amount of principal recyclable material received during the previous 12 months for recycling and "Total" is the amount of municipal solid waste generated within the jurisdiction during the previous 12 months.~~

~~The amounts may be expressed in the following units:~~

- ~~a. The actual weight of each component.~~
  - ~~b. The volume of each component.~~
  - ~~c. The estimated weight of each component based on the most accurate survey or estimated per capita weight.~~
- ~~2. The amount of supplemental recyclable material that is reused or recycled may be added into both the "Recycled" and "Total" amounts in each calculation method.~~
  - ~~3. Any local government or regional solid waste management body that is participating in the used tire management program sponsored by the department may add the amount of those tires to both the "Recycling" and "Total" amounts in the recycling rate calculation.~~
  - ~~4. Any local government or regional solid waste management body may include mulched yard waste in both the "Recycled" and "Total" amounts simultaneously for the required recycling rate calculations if it can be demonstrated that the finished mulch will be marketed or otherwise used productively. In addition, any local government or regional solid waste management body may include composted yard waste in both the "Recycled" and "Total"~~

~~amounts simultaneously for the required recycling rate calculations if it can be demonstrated that the finished compost will be marketed or otherwise used productively.~~

~~5. Any local government or regional solid waste management body may include used oil, used oil filters, and used antifreeze in the "Recycled" and "Total" amounts if it can be demonstrated that the oil, used oil filters and used antifreeze will be marketed or used productively.~~

~~6. Where a source reduction of any municipal solid waste material or reuse of a principal recyclable material is documented to have occurred, is accurately quantified and is requested as a petition for a variance in accordance with 9 VAC 20-130-230, the director may issue a credit for the amount to be added into the "Recycled" and "Total" amounts in each calculation method. The credit may be for a part of the source reduction or reuse amount if the director finds that to be more appropriate. The director shall grant such a credit only where an effective recycling program is being implemented. The director shall not grant the credit if the minimum recycling rate of 25% is being achieved.~~

~~7. These regulations shall permit a credit, to be added into the "Recycled" and "Total" amounts in each calculation method, of one ton for each ton of recycling residue generated in Virginia and deposited in a landfill permitted under subsection M of § 10.1-1408.1 of the Code of Virginia. The total annual credits shall not exceed one fifth of the 25% required recycling rate.~~

C. The solid waste management plan shall include data and analyses of the following type(s) for each jurisdiction. Each item below shall be in a separate section and labeled as to content:

1. Population information and projections for 20 years of population growth and development patterns;

2. Urban concentrations, geographic conditions, economic growth and development, markets for the reuse and recycling of materials, transportation conditions, and related factors;

3. Estimates of solid waste generation from residential, commercial institutional, industrial, construction, demolition, debris and other types of sources, including the amounts reused, recycled, recovered as a resource, incinerated and landfilled. Entities engaged in the collection, processing, and marketing of recyclable materials should provide data for incorporation into the recycling rate calculation, when requested by the planning unit.

4. A listing of existing and planned solid waste collection, storage, treatment, transportation, disposal and other management facilities, their projected capacities, expected life and systems for their use;

5. All milestones in the implementation of the solid waste management plan over the 20-year projection and the parties responsible for each milestone;

6. A description of programs for solid waste reduction, reuse, recycling, resource recovery, incineration, storage, treatment, disposal and litter control;

7. A description of outreach programs for waste exchange, public education and public participation;

8. The procedures for and results of evaluating solid waste collection, including transfer stations; and

9. The assessment of all current and predicted needs for solid waste management for a period of 20 years and a description of the action to be taken to meet those needs.

D. All known solid waste disposal sites, closed, inactive and active, within the area of the solid waste management plan shall be documented and recorded at a centralized archive authorized to receive and record information and a copy shall be sent to the ~~director~~ department. All new sites shall be recorded at the same central data source.

E. A methodology shall be utilized to monitor the amount of solid waste of each type produced within the area of the solid waste management plan and to record the annual production by solid waste types at a centralized archive and a copy shall be sent to the ~~director~~ department. ~~Waste types include but are not limited to broad classes such as municipal solid waste, construction/demolition/debris, industrial, regulated medical waste, white goods, friable asbestos, petroleum contaminated soil and the major categories of principle and supplemental recyclable materials.~~

F. Include, when developed locally, a copy of the local governing body's resolution adopting the solid waste management plan.

G. Include, when developed regionally, a copy of the resolution approving the plan adopted in accordance with the Virginia Area Development Act, the Virginia Water and Waste Authorities

Act, the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions § 15.2-1300 of the Code of Virginia, or other authority as applicable.

H. Clearly and explicitly demonstrate the manner in which the goals of the planning requirements in these regulations shall be accomplished and actions to take if these requirements are not met.

I. A planning unit that does not meet the requirements of these regulations may submit an action plan, by mail or electronic mail, for approval by the department. Such action plans shall include:

1. A description of the deficiency that requires the development of the action plan.
2. A time schedule to resolve the deficiency(ies) associated with the planning unit's failure to meet the requirements of the approved solid waste management plan.
3. A reporting requirement to the department, of a minimum of once every six months, including activities or updates documenting how the action plan requirements are being met.
4. Plans and all subsequent reports and submittals shall be reviewed by the department within 30 days of receipt by the department.
5. All the department's requests for further information or response(s) shall be provided within 30 days of receipt at the planning unit. The department may grant reasonable extensions to these deadlines on a case by case basis.

**9 VAC 20-130-125. Recycling Requirements**

A. Each solid waste planning unit shall maintain a minimum recycling rate for municipal solid waste generated within the solid waste planning unit pursuant to the following schedule:

1. Except as provided in subdivision 2, each solid waste planning unit shall maintain a minimum 25% recycling rate; or

2. Each solid waste planning unit shall maintain a minimum 15% recycling rate if it has (i) a population density rate of less than 100 persons per square mile according to the most recent United States Census, or (ii) a not seasonally adjusted civilian unemployment rate for the immediately preceding calendar year that is at least 50% greater than the state average as reported by the Virginia Employment Commission for such year.

B. The minimum recycling rate shall be determined by the following formula:

$$\text{Recycling Rate} = \frac{[\text{PRMs recycled}]}{[\text{MSW generated}] + [\text{all Credits in C}]}$$

Where: PRMs recycled equals the amount of principle recyclable materials received for recycling each calendar year; and,

MSW generated equals the sum of PRMs recycled and MSW disposed. (MSW disposed equals the amount of MSW delivered to landfills, transfer stations, incineration and waste-to-energy facilities)

The amounts shall be expressed in tons using one of the methods below:

1. The actual weight of each component in tons; or

2. The volume of each component, converted to weight in tons (conversion chart in Form DEQ 50-30).

C. Credits may be added to the recycling formula in B. provided that the aggregate of all such credits shall not exceed five percentage points of the annual municipal solid waste recycling rate achieved for each solid waste planning unit:

1. A credit of one ton for each ton of any non-municipal solid waste material that is recycled;

2. A credit of one ton for each ton of any solid waste material that is reused;

3. A credit of one ton for each ton of recycling residue generated in Virginia and deposited in a landfill permitted under subsection M of § 10.1-1408.1;

4. A credit of two percentage points of the minimum recycling rate mandated for the solid waste planning unit for a source reduction program that is implemented within the solid waste planning unit. The existence and operation of such a program shall be certified by the solid waste planning unit; and

5. A credit of one ton for each inoperable vehicle for which a locality receives reimbursement from the Virginia Department of Motor Vehicles under §46.2-1407 of the Code of Virginia.

D. Yard wastes and vegetative wastes are deemed to be recycled if they are composted or mulched and the finished mulch or compost is marketed or otherwise used productively. Tires are deemed to be recycled if they are beneficially used in a method consistent with the waste tire

program operated by the department. Used oil, oil filters and antifreeze are deemed to be recycled if they are marketed or otherwise used productively.

**9 VAC 20-130-130. Public participation.**

A. Prior to the solid waste planning unit's submission of a solid waste management plan or a major amendment to the plan to the department, the submitter shall publish a notice and hold a public hearing on the plan in accordance with the procedures of the ~~local government(s) or regional planning agency~~ in the solid waste planning unit. When the solid waste planning unit represents multiple government units, the submitter of a major plan amendment(s) needs to conduct the above public participation requirements only in the county or locality where the major amendment is to be located. A record of the public hearing, a copy of all written comments and the submitter's response to all comments received shall be submitted with the plan.

B. Plan developers shall, in accordance with their own rules and procedures, provide for ~~extensive~~ participation by the public through the use of ~~citizen advisory committees and~~ public meetings during the development of the plan.

**~~9 VAC 20-130-140. Plan objectives.~~**

~~Every solid waste management plan shall be a fully integrated waste management plan that considers all elements of waste management. The plan shall:~~

~~1. Include consideration of the hierarchy defined in 9 VAC 20-130-30 giving preference to alternatives in the following order of priority: source reduction, reuse, recycling, resource recovery, incineration, and landfilling;~~

~~2. Clearly and explicitly demonstrate the manner in which the goals of the mandatory objectives defined in 9 VAC 20-130-120 shall be accomplished;~~

~~3. Include, when developed locally, a copy of the local governing body's resolution adopting the plan; and~~

~~4. Include, when developed regionally, a copy of the resolution approving the plan adopted in accordance with the Virginia Area Development Act, the Virginia Water and Waste Authorities Act, the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions § 15.2-1300 of the Code of Virginia, or other authority as applicable.~~

**~~9 VAC 20-130-150. Incorporated data.~~**

~~The local government or regional solid waste management plan shall include data and analyses of the following type for each jurisdiction. Each item below shall be in a separate section and labeled as to content:~~

~~1. Population information and projections for 20 years of population growth and development patterns;~~

~~2. Urban concentrations, geographic conditions, economic growth and development, markets for the reuse and recycling of materials, transportation conditions, and related factors;~~

~~3. Estimates of solid waste generation from households, commercial institutions, industries and other types of sources, including the amounts reused, recycled, recovered as a resource, incinerated and landfilled. Estimates should identify special waste to include, at least, the following: stumps, land clearing debris and construction wastes, motor vehicle tires, waste oil, batteries, sludges, mining wastes, septage, agricultural wastes and spill residues;~~

~~4. A listing of existing and planned solid waste collection, storage, treatment, transportation, disposal and other management facilities, their projected capacities, expected life and systems for their use;~~

~~5. All milestones in the implementation of the solid waste management plan over the 20 year projection and the parties responsible for each milestone;~~

~~6. A description of programs for solid waste reduction, reuse, recycling, resource recovery, incineration, storage, treatment, disposal and litter control;~~

~~7. A description of outreach programs for waste exchange, public education and public participation;~~

~~8. The procedures for and results of evaluating solid waste collection, including transfer stations; and~~

~~9. The assessment of all current and predicted needs for solid waste management for a period of 20 years and a description of the action to be taken to meet those needs.~~

**9 VAC 20-130-160. (Repealed.)**

**9 VAC 20-130-165. ~~Waste Information and Assessment Program.~~ Annual Recycling Data Reporting**

Every solid waste planning unit shall submit to the Department by April 30 of each year the data and calculations required in 9 VAC 20-130-125 A, B, and C.

~~A. The owners or operators of all permitted facilities that treat, store, or dispose of solid waste shall report by March 31 of each year the amount of solid waste, by weight or volume, received and managed in the Commonwealth during the preceding calendar year. The report shall identify solid waste by the following categories: (i) municipal solid waste; (ii) construction and demolition debris; (iii) industrial waste; (iv) regulated medical waste; (v) vegetative and yard waste; (vi) incinerator ash; (vii) sludge other than sludge that is land applied in accordance with § 32.1-164.5 of the Code of Virginia; (viii) tires; (ix) white goods; (x) friable asbestos; (xi) petroleum contaminated soil; and (xii) other special waste. For each such category the report shall include an estimate of the amount that was generated outside of the Commonwealth and the jurisdictions where such waste originated.~~

~~The report shall also estimate the amount of solid waste managed or disposed of by each of the following methods: (i) recycling; (ii) composting; (iii) landfilling; (iv) incineration (v) sending off site for further management; and (vi) stored on site on December 31 of the reporting year. This~~

~~section shall not apply to captive waste management facilities. The report is to be sent to the department regional office for the facility's location.~~

~~Information on the available capacity and expected life of the facilities at the disposal rates submitted in this subsection shall be included in the annual report required by this section.~~

~~B. At the option of the facility owner, the data collected may include an accounting of the facility's economic benefits to the locality where the facility is located including the value of disposal and recycling facilities provided to the locality at no cost or reduced cost, direct employment associated with the facility, and other economic benefits resulting from the facility during the preceding calendar year.~~

~~C. No facility shall be required pursuant to this section to provide information that is a trade secret as defined in § 59.1-336 of the Code of Virginia.~~

~~D. Every city, county and town in the Commonwealth, or solid waste management planning region approved pursuant to 9 VAC 20-130-180, shall submit to the department by April 30 of each year, the data and calculations required in 9 VAC 20-130-120 B and C.~~

**9 VAC 20-130-170. (Repealed.)**

**9 VAC 20-130-175. Amendments to plans.**

A. Amendments to the plans shall be classified as major or minor. These classifications are described in this section below.

1. Major amendments shall include:

a. any addition, deletion, or cessation of operation of any solid waste facility;

b. any increase in landfill capacity;

c. any change that moves toward implementation of a waste management strategy that is lower in the waste management hierarchy;

d. action plan(s), including an action plan to address a planning unit's recycling rate that has fallen below the statutory minimum; and,

e. any change to membership in the approved area.

2. Minor amendments shall include any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy and any nonsubstantive administrative change such as a change in name. Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans.

~~B. Any amendments to the plans shall be approved by the department prior to implementation.~~

~~E. B.~~ Major amendments shall require the same public participation as detailed in 9 VAC 20-130-130 before being submitted, by mail or electronic mail, to the department for approval prior to implementation.

~~D.~~ ~~Minor amendments shall be submitted directly to the department for approval.~~

~~E. C.~~ The department shall review major amendments and approve or return comments on any the deficiencies in ~~each amendment submitted in accordance with this section~~ no later than 90 days from the date the ~~plans~~ amendments are received. In the event the department is unable to complete its review within 90 days, the applicant will be notified and given a date as to when the review will be completed. No department approval shall be necessary for minor amendments.

~~F. D.~~ Each submitter who receives comments on his ~~solid waste management plan~~ major plan amendment under subsection ~~D C~~ of this section shall submit a corrected amendment to the department no later than 90 days following notification of deficiencies.

~~G. E.~~ ~~Major Amendments~~ amendments approved without alteration shall become effective upon notification. If after review of the corrected amendment submitted pursuant to subsection ~~F D~~ of this section, the department cannot approve the corrected amendment because it finds the amendment not to be in accordance with this chapter, it will issue a notice of intent to disapprove to the submitter. The notice of intent to disapprove shall set forth (i) the reason for the disapproval, (ii) what is required for approval, and (iii) the right of the submitter to an ~~informational~~ informal fact-finding proceeding under ~~Article 3 of the Virginia Administrative Process Act (§ 9-6.14:1 et seq.~~ Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia). The department will give priority consideration for review of corrected amendments

when the planning unit ~~local or regional body~~ has a pending permit application for a solid waste management facility.

F. Solid Waste Management Planning Units are required to maintain current plans. On or before each five-year anniversary of the department's plan-approval date, the planning unit shall submit a letter to the department, by mail or electronic mail, certifying that the following plan elements, listed in 9 VAC 20-130-120.C, have been maintained and updated: waste generation estimates are current, the schedule increments have been met, and a projected 20-year waste management capacity remains available or projects otherwise are on schedule to meet the unit's solid waste needs. The letter of certification will be used in the department's assessment of whether any plan amendments are necessary and to ensure compliance with 9 VAC 20-130-110.E.

**9 VAC 20-130-180. Designation of ~~regions~~ solid waste planning units.**

The director has been authorized by the Governor to designate regional boundaries defining areas and jurisdictions to be considered for joint development of solid waste management plans. Only those ~~regions~~ solid waste planning units meeting the standards established in this chapter will be considered. Any group of jurisdictions may petition the director for designation as a ~~region~~ solid waste planning unit, and, if the proposed region meets the standards established for designation, the director shall approve the request.

**9 VAC 20-130-190. Development of designated ~~regions~~ solid waste planning units.**

A. At least 14 days prior to designating a regional boundary for solid waste management planning, the director shall place a notice of the proposed regional boundary and an opportunity to comment in the Virginia Register of Regulations and in a newspaper of general circulation within the proposed ~~region~~ solid waste planning unit.

B. If, as a result of the notices required by subsection A of this section, the director feels a significant need exists to hold a public hearing on the issues, a public hearing shall be held in the proposed region prior to the designation. At least 14 days prior to the public hearing, a notice of the proposed public hearing shall appear in the same publications as the notice under subsection A of this section.

**9 VAC 20-130-200. Considerations in designating a ~~a regional boundary~~ solid waste planning unit boundaries.**

A. The following shall be considered in designating ~~regional~~ solid waste planning unit boundaries:

1. Geographic areas or jurisdictions which have a history of cooperating to solve problems in environmental or other related matters;
2. Existing regional management systems, authorities or similar institutions;
3. The size, configuration and location of the regional areas should have sufficient solid waste contribution and market availability to support the solid waste management system;

4. Solid waste types within areas and mutuality of solid waste management interests;
  
5. Geologic, hydrologic, soil and groundwater conditions; availability of land and soils; and natural barriers and ecosystems; and
  
6. Existing planning areas established for purposes other than solid waste management including the existence of informational databases containing data related to that needed for solid waste management planning and recycling.

B. Areas included within a solid waste planning unit's boundary boundaries may be local or regional.

1. A local area may include a city, town or county and any towns within the county that through mutual agreement join with the county for the purpose of developing a plan.
  
2. A regional area may include:
  - a. The jurisdictions with existing regional planning district boundaries;
  
  - b. Any combination of local governments formally joined to form a region or service authority, or
  
  - c. Existing waste management or public service authorities.

**9 VAC 20-130-210. Criteria for designating a ~~regional planning agency~~ solid waste planning unit.**

A. The director may authorize an official committee or public body as authorized to develop, adopt and promulgate the solid waste management plan.

B. Prospective ~~regional planning agencies~~ solid waste planning units shall have:

1. Demonstrated ability to plan, manage or operate solid waste management and recycling services; or
2. Completed planning that resulted in successful implementation of solid waste management and recycling facilities or services.

C. An entity designated as responsible for developing a ~~regional~~ solid waste management plan shall:

1. Be an organization that represents the executive boards of jurisdictions within the ~~region~~ solid waste planning unit;
2. Have planning authority for the regional area;
3. Be capable of readily starting the plan development work tasks;

4. Have an established methodology for resolving conflicts, making planning decisions and providing public participation in the development of the plan;
5. Have experience in environmental planning and have a staff experienced in the work tasks involved in such planning;
6. Have established a methodology and authority sufficient to implement the plan once it is complete and approved; and
7. Have access to informational resources within the region.

**9 VAC 20-130-220. Amendment of ~~regional boundary~~ solid waste planning unit boundaries.**

The director may amend a ~~regional~~ solid waste planning unit's boundary based on an application from the governing body or bodies of the ~~region~~ solid waste planning unit. Along with the application, each locality (within the original region and any locality being added) must submit a letter acknowledging the change in the boundary.

**9 VAC 20-130-230. Petitioning for variance or exemption.**

A. Any person regulated by this chapter may petition the director to grant a variance or an exemption from any requirement of this chapter subject to the provisions of this section. Any petition submitted to the ~~director~~ department is also subject to ~~Article 3 of the Virginia~~

~~Administrative Process Act (§ 9-6.14:1 et seq. Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia).~~

B. The director may grant the variance or an exemption provided the applicant demonstrates to the satisfaction of the director that:

1. The solid waste planning unit has demonstrated that it has made a good faith effort to comply with the minimum recycling rates and with the requirements of this chapter before that unit petitioned for a variance; and

2. If the minimum recycling rate is addressed in the petition, and strict application of the minimum recycling rates will result in undue hardship as a result of the solid waste planning unit's particular market conditions that are beyond the planning unit's control; or

3. If the recycling rate is not addressed in the petition and granting the variance will not have an adverse impact on the integrity of the overall solid waste management plan.

~~B.~~ C. The petition shall be submitted to the ~~director~~ department by certified mail and shall include:

1. The petitioner's name and address;

2. A statement of petitioner's interest in the proposed action;

3. A description of desired action and a citation of the regulation from which a variance is requested;
4. A description of need and justification for the proposed action, including impacts from existing operations and market conditions (if, ~~based on the evidence submitted in a petition the director determines that market conditions within a county, city, town or region make unreasonable the mandatory recycling rates specified in this chapter and that the market conditions are beyond the control of the county, city, town or region, a variance from those rates may be issued~~ the planning unit chooses to petition for 9 VAC 20-130-230.B.2);
5. The duration of the variance, if applicable;
- ~~6. The potential impact of the variance on public health or the environment;~~
- ~~7.~~ 5. Other information believed by the applicant to be pertinent; and
- ~~8.~~ 6. The following statement signed by the petitioner or authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

D. Petition Processing and Resolution.

1. In the case of a denial, the petitioner's procedural rights are outlined in Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

2. If the director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the director that the petitioner has failed to comply with any variance requirements.

**9 VAC 20-130-240. (Repealed.)**

FORMS

~~Form DEQ 50-25, Solid Waste Information and Assessment Program Reporting Table (rev. 6/00).~~

Form DEQ 50-30, Locality Recycling Rate Report (~~rev. 4/01~~ or most recent version).